

BILL NO. 2006-54

ORDINANCE NO. _____

AN ORDINANCE TO PROHIBIT UNRULY GATHERINGS, ESTABLISH REGULATIONS WITH RESPECT THERETO, PROVIDE FOR THE IMPOSITION OF PENALTIES AND RESPONSE COSTS, AND PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Councilwoman Lois Tarkanian Summary: Prohibits unruly gatherings and establishes regulations and penalties with respect thereto.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
AS FOLLOWS:

SECTION 1: Title 9 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new chapter, designated as Chapter 14, consisting of the provisions set forth as Sections 2 to 13, inclusive, of this Ordinance.

SECTION 2: The purpose of this Chapter is to set forth the criteria to be used by Metro and the City to enforce laws prohibiting neighborhood parties that provide service to and consumption of alcoholic beverages by adults and underage persons. In addition, this Chapter is enacted to reduce the costs of providing police, fire and other emergency response services regarding unruly gatherings by imposing a civil penalty against the social host and land owner for the recovery of costs associated with providing emergency response services.

SECTION 3: For purposes of this Chapter, the following terms have the meanings ascribed to them:

“Department” means the Department of Neighborhood Services.

“Metro” means the Las Vegas Metropolitan Police Department.

“Owner” means any owner of real property, as well as any agent of an owner acting on behalf of the owner to control or otherwise regulate the occupancy of use of the property.

“Residence or other private residential property” means a home, yard, apartment, condominium, or other dwelling unit or residential property, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, party or other social function and whether owned, leased, rented or used without compensation.

“Response costs” means the costs associated with responses by law enforcement, fire or any

1 other emergency response providers to unruly gatherings, including, but not limited to:

2 (A) Salaries and benefits of law enforcement, fire or other emergency response
3 personnel for the amount of time spent responding to, remaining at, or otherwise dealing with unruly
4 gatherings;

5 (B) The cost of any medical treatment to or for any law enforcement, fire or other
6 emergency response personnel injured responding to, remaining at or leaving the scene of an unruly
7 gathering; and

8 (C) The cost of repairing any Metro or City equipment or property damaged, and
9 the cost of the use of any such equipment, in responding to, remaining at or leaving the scene of an
10 unruly gathering.

11 “Responsible person” means a person or persons with a right of possession in the residence
12 or other private residential property on which an unruly gathering is conducted, including, but not
13 limited to:

14 (A) An owner of the residence or other private residential property;

15 (B) A tenant or lessee of the residence or other private residential property;

16 (C) The landlord of another person responsible for the gathering;

17 (D) The person or persons in charge of the residence or other private residential
18 property; or

19 (E) The person or persons who organize, supervise, officiate, conduct or control
20 the gathering, or any other person or persons accepting responsibility for such a gathering.

21 “Unruly gathering” means a gathering of two or more persons on any private residential
22 property in a manner which causes a disturbance of the quiet enjoyment of private or public property
23 by any person or persons. Such disturbances include, but are not limited to, excessive noise or traffic,
24 obstruction of public streets by crowds or vehicles, drinking in public, the service of alcohol to minors
25 or consumption of alcohol by minors, fighting, littering, vandalism, assaults, batteries, disturbance of
26 the peace, or any other conduct that constitutes a threat to public health, safety or welfare. An unruly
27 gathering is unlawful and constitutes a civil infraction and may be abated by reasonable means,
28 including, but not limited to citations or arrests of violators under applicable ordinances or statutes.

1 SECTION 4: Every owner, occupant, lessee or holder of any possessory interest of
2 a residence or other private residential property within the City is required to maintain, manage and
3 supervise the property and all persons thereon in a manner so as not to violate the provisions of this
4 Chapter. Once notified, the owner of the property remains liable for such violations regardless of any
5 contract or agreement with any third party regarding the property.

6 SECTION 5: The Department is authorized to post any premises at which an unruly
7 gathering has occurred with a notice stating:

8 (A) That an unruly gathering has occurred at the premises;

9 (B) The date of the unruly gathering;

10 (C) That any subsequent unruly gathering on the same premises within a one
11 hundred eighty-day period shall be grounds for the imposition of liability in accordance with this
12 Chapter;

13 (D) That those with potential liability include any person in attendance causing the
14 gathering to be unruly; any owner, occupant or a tenant of the premises at which the unruly gathering
15 occurred; and any sponsor of the event constituting the unruly gathering; and

16 (E) That the posting of the notice may be contested as set forth in Section 8 of this
17 Ordinance.

18 SECTION 6: (A) The posting of premises pursuant to Section 5 of this Ordinance
19 is authorized each time an unruly gathering occurs on the premises. The owner, occupant or tenant
20 of the premises or sponsor of the event constituting the unruly gathering, if present, shall be consulted
21 as to the location in which such notice is posted in order to achieve both the security of the notice and
22 its prominent display. In the event that a premises is already posted at the time of a subsequent
23 posting the one hundred eighty-day period shall be extended to one hundred eighty days from the date
24 of the new posting. Once a premises is initially posted as a result of an unruly gathering and the
25 conduct causing the gathering to be unruly has ceased, a resumption of behavior constituting an unruly
26 gathering on the premises that results in another police response shall constitute a new and separate
27 unruly gathering for the purpose of this Section.

28 (B) In connection with the posting of premises, the Department shall mail notice

1 of the posting to the property owner at the last known address of record on file at the Clark County
2 Assessor's Office. The notice shall advise the property owner that any subsequent unruly gathering
3 within one hundred eighty days on the same premises shall be grounds for the imposition of liability
4 in accordance with this Chapter. The notification shall be sent by regular mail and certified mail,
5 return receipt requested. In addition, the notice shall be provided to any agent of the owner, if known,
6 who controls or regulates the use of the premises. Notice to the owner's agent may be provided by
7 hand delivery or by certified or regular mail sent to the agent's last known address. The failure to
8 serve notice to any person described in this Section shall not invalidate any citation, civil penalty or
9 other proceedings as to any other person duly served or relieve any such person from any duty imposed
10 by this section.

11 SECTION 7: The owner, occupant or tenant of the posted premises shall be
12 responsible for ensuring that a notice posted under Sections 5 and 6 of this Ordinance is not removed,
13 defaced or concealed. The removal, defacement or concealment of a posted notice is subject to a
14 minimum civil penalty of one hundred fifty dollars in addition to any other penalties which may be
15 imposed under this Chapter.

16 SECTION 8: An owner, occupant or tenant of the posted premises may contest the
17 posting of the notice by filing a written petition for review with the City Clerk requesting that the City
18 Council determine whether justification existed for posting of the notice under the provisions of this
19 Chapter. The petition must be filed in accordance with the time line that is set forth in LVMC
20 9.04.070 for notices of a nuisance violation, and the City Clerk shall set a hearing in accordance with
21 the requirements of Chapter 9.04. At the hearing, the agency responsible for posting the property shall
22 have the burden of proving by substantial evidence that the posting of the notice was justified pursuant
23 to the provisions of this Chapter.

24 SECTION 9: (A) Except as otherwise provided in Subsection (B) of this Section,
25 a petition for review under Section 8 of this Ordinance that is filed by an owner may include a request
26 for removal of a notice on the grounds that the owner has taken reasonable and necessary actions, such
27 as evicting a tenant responsible for the violation, to prevent the occurrence of a subsequent unruly
28 gathering at the posted premises. The petitioner has the burden of proving by a preponderance of

1 evidence that the petitioner has taken reasonable and necessary actions to prevent the occurrence of
2 a subsequent unruly gathering.

3 (B) A request under Subsection (A) of this Section is not available to an owner who
4 was present at the unruly gathering and engaged in conduct causing the gathering to be unruly.

5 SECTION 10: (A) An unruly gathering is unlawful and constitutes a nuisance and
6 civil violation. The following parties, if found responsible for the violation, are liable for the penalty
7 provided for in Paragraph (1) of Subsection (B) of Section 11 of this Ordinance:

8 (1) The person or persons who organized or sponsored the event
9 constituting the unruly gathering, including any owner or occupant in attendance at the unruly
10 gathering; and

11 (2) Any person in attendance at the unruly gathering who engaged in any
12 conduct causing the gathering to be unruly.

13 (B) The occurrence of an unruly gathering on the same premises more than once
14 in any one hundred eighty-day period is a civil violation. The following parties, if found responsible
15 for such a violation are liable for the penalties provided for in Paragraphs (2) or (3) of Subsections (B)
16 of Section 11 of this Ordinance:

17 (1) The owner of the property where the subsequent unruly gathering
18 occurred if either:

19 (a) The owner was present when the property was posted; or

20 (b) Notification of the posting was mailed or delivered to the owner
21 of the property in accordance with Section 6 of this Ordinance and the subsequent unruly gathering
22 occurred not less than one week after the mailing of such notification.

23 (2) The occupant or tenant of the property where the subsequent unruly
24 gathering occurred.

25 (3) The person or persons who organized or sponsored the event
26 constituting the subsequent unruly gathering.

27 (4) Any person in attendance at the subsequent unruly gathering who
28 engaged in any conduct causing the gathering to be unruly.

1 (C) Nothing in this Section shall be construed to impose liability on the owner,
2 occupant or tenant of the premises or sponsor of the event constituting the unruly gathering for the
3 conduct of persons who are in attendance without the express or implied consent of the owner,
4 occupant tenant or sponsor as long as the owner, occupant tenant or sponsor has taken steps reasonably
5 necessary to prevent a subsequent unruly gathering or to exclude the uninvited persons from the
6 premises, including owners who are actively attempting to evict a tenant from the premises. Where
7 an invited person engages in unlawful conduct which the owner, occupant tenant or sponsor could not
8 reasonably foresee and could not reasonably control without the intervention of the police, the
9 unlawful conduct of the person shall not be attributable to the owner, occupant tenant or sponsor for
10 the purposes of determining liability under this Chapter.

11 SECTION 11: (A) It is a civil violation for any responsible person to conduct, aid,
12 allow, permit or condone an unruly gathering at a residence or other private residential property. Upon
13 receipt of documentation indicating that an unruly gathering has taken place, the Department is
14 authorized to determine that a violation has occurred, that one or more persons should be held
15 responsible for the violation, and that penalties should be imposed.

16 (B) Upon a determination made pursuant to Subsection (A), the Department is
17 authorized to impose the following penalties:

18 (1) For a first violation of this Chapter, a minimum civil penalty of one
19 hundred fifty dollars;

20 (2) For a second violation of this Chapter at the same residence or private
21 residential property, or by the same responsible person, within a one hundred eighty-day period, a
22 minimum civil penalty of three hundred dollars.

23 (3) For a third or subsequent violation of this Chapter at the same residence
24 or private residential property, or by the same responsible person, within a one hundred eighty-day
25 period, a minimum civil penalty of five hundred dollars.

26 (C) The second, third or subsequent penalties prescribed in Paragraphs (2) and (3)
27 of Subsection (B) are payable whether or not the responsible person for such unruly gathering is
28 different from the responsible person for any prior unruly gathering at the residence or other private

1 residential property.

2 (D) The penalty schedule prescribed in this Section is a “rolling schedule,” meaning
3 that, in calculating the penalty that is payable, the Department shall count backward starting from the
4 date of the most recent unruly gathering to determine how many prior unruly gatherings have taken
5 place at the residence or other private residential property in question during the preceding one
6 hundred eighty days. A warning given pursuant to this Chapter shall remain in effect for the residence
7 or other private residential property at a given address until a full one hundred eighty-day period has
8 elapsed during which there have been no responses to a unruly gathering at that residence or other
9 private residential property.

10 (E) The determination that a violation occurred and the imposition of penalties
11 pursuant to this Section may be appealed in accordance with the appeal procedures for nuisances as
12 set forth in LVMC Chapter 9.04. The payment of any penalty shall be stayed during the pendency of
13 a timely appeal.

14 SECTION 12: (A) When law enforcement, fire or other emergency response
15 provider responds to an unruly gathering at a residence or other private residential property within one
16 hundred eighty days of a warning given to a responsible person for an unruly gathering, all persons
17 shall be jointly and severally liable for the costs of Metro or the City of providing response costs for
18 that response and all subsequent responses during the warning period.

19 (B) When a law enforcement, fire or other emergency response provider officials
20 makes an initial response to an unruly gathering at a residence or other private residential property,
21 the official shall inform any person or persons at the scene who are responsible for the gathering that:

22 (1) The official has determined that an unruly gathering exists; and

23 (2) Responsible persons are liable for any response costs required for
24 subsequent responses to the scene for an unruly gathering within one hundred eighty days.

25 (C) Only one warning will be given to a responsible person pursuant to this Section
26 before Metro or the City assesses response service costs in accordance with this Chapter.

27 (D) If a responsible person cannot be identified at the scene, the official may issue
28 a warning to one or more persons identified pursuant to this Section, may subsequently return to the

1 residence or other private residential property and issue the warning to a then present responsible
2 person, or a combination thereof. Warnings given to responsible persons who do not reside at the
3 residence or other private residential property in question shall be delivered by regular and certified
4 mail, return receipt requested.

5 SECTION 13: (A) The amount of response costs shall be deemed a debt owned to
6 the City by the responsible person held liable under Section 12 of this Ordinance for the unruly
7 gathering and, if a juvenile, by the juvenile's parents. The responsible person may appeal the
8 imposition of costs in accordance with the appeal procedures for nuisance as set forth in LVMC 9.04
9 et. seq. In the event an appeal is not timely filed, the City may collect the costs in any commercially
10 reasonable manner including, but not limited to using a collection agency or civil litigation.

11 (B) Notice of the costs for which the responsible person is liable shall be mailed
12 by regular mail and certified mail, return receipt requested within thirty days of the response giving
13 rise to such costs. The notice shall contain the following information:

14 (1) The name of the person or persons being held liable for the payment of
15 such costs;

16 (2) The address of the residence or other private residential property where
17 the unruly gathering occurred;

18 (3) The date and time of the response;

19 (4) The law enforcement, fire or emergency service provider who
20 responded;

21 (5) The date and time of any previous warning given pursuant to Section
22 12 of this Ordinance and previous responses to unruly gatherings at the residence or other private
23 residential property in question within the previous one hundred eighty-day period; and

24 (6) An itemized list of the response costs for which the person or persons
25 are being held liable.

26 (C) The responsible person must remit payment of the noticed response costs to the
27 City Clerk within thirty days after the date of the notice. The payment of any such costs shall be
28 stayed upon a timely appeal.

SECTION 14: If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 15: Whenever in this ordinance any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is required or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the doing of such prohibited act or the failure to do any such required act shall constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

SECTION 16: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2006.

APPROVED:

By OSCAR B. GOODMAN, Mayor

ATTEST:

BARBARA JO RONEMUS, City Clerk

APPROVED AS TO FORM:

Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 _____ day of _____, 2006, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the _____ day of
5 _____, 2006, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

11

12 APPROVED:

13

14 By _____
OSCAR B. GOODMAN, Mayor

15 ATTEST:

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17 BARBARA JO RONEMUS, City Clerk

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